IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SMT JUSTICE T.MEENA KUMARI

and
HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 827 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 28/12/2004 in WP NO : 7354 OF 1998 on the file of the High Court.)

Between:

Goparaju Sri Prabhakara Hari Babu, s/o Atchaiah,
r/o MTG-2B-29, Vinayakanagar, VUDA Colony, Pedagantyada, Visakhapatnam-530 044.

..... APPELLANT

AND

1 Chairman & Managing Director, The Visakhapatnam Steel Plant,

Visakhapatnam.
2 The Director (Personal)Personal Department, The Visakhapatnam

Steel Plant, Visakhapatnam.
3 K.Krishna Rao, Deputy General Manager (Power) Disciplinary

Authority, The Visakhapatnam Steel Plant, Visakhapatnam.
4 Additional General Manager, (Power, Electrical & Telecom)

Appellate Authority, Steel plant, Visakhapatnam.

.....RESPONDENTS

Counsel for the Appellant: MR.J.SREENIVASA RAO

Counsel for the Respondents.: MR.V.RAVINDER RAO

The Court made the following :

*Form-NIC-OGS/WA {**RS**}*

JUDGMENT (per Hon'ble Smt Justice T. Meena Kumari) :

The present appeal is filed being aggrieved against the order dated 28-12-2004 passed in W.P. No. 7354 of 1998 by learned single Judge of this Court whereby dismissed the writ petition, which was filed challenging the removal of the petitioner from services through the impugned order of the 4th respondent dt. 6-8-1997.

Appellant herein is the petitioner in the writ petition.

It has been contended before the learned single Judge that as the appellant's mother was ill, he could not present himself for the duty and even though he submitted an explanation, the same was not considered by the authorities resulting to the dismissal of the petitioner from service.

The learned single Judge after hearing both the counsel has observed that the petitioner is a habitual absentee and no irregularity could be pointed out in the procedure adopted by the respondents in removing the petitioner from service. Aggrieved by the said findings, the present writ appeal is filed.

Learned counsel appearing on behalf of appellant has submitted before this Court that while passing the punishment order on 16-4-1992 the disciplinary authority has taken into consideration all the previous charges which were the subject matters of the year 1991, for which the petitioner was already charge sheeted and punishment was imposed. He further contended that from the year 1993 to 1995 the appellant was not absented from the duty and he was not charge sheeted for any other misconduct. It has been further argued that even though an explanation has been submitted to the show cause notice dated 19-6-1995 in pursuance of the charge sheet dt.5-6-1995 and an endorsement was made by the Junior Manager to the effect that "*please discuss*", yet, the

disciplinary authority has passed the final order, which did not envisage the fact of reference to the explanation given by the appellant herein. In the absence of any consideration of the explanation, which goes to show that the appellant could not attend the duty because of the ill health of his mother, the action of the respondents would amounts to violation of principles of natural justice. Further, it has to be observed that the appellate authority also has not considered the factum of submitting the explanation by the appellant and conducted an enquiry as if he had not submitted his explanation and that the action of the respondents in considering the action taken on the earlier charge is not acceptable. In the absence of any material before this Court that the appellant was continuously absent from duty from the last date of the issuance of the charge sheet in the year 1992 till 1995, he cannot be termed as habitual absentee and in view of the factum of his absence as was explained by him through his explanation dt. 19-6-1995, which was not taken into consideration by the disciplinary authority as well as the appellate authority, it has to be held that the action of the respondents in terminating the services of the petitioner is vilolation of principles of natural justice.

Under the above circumstances, the order of the learned single Judge is set aside and the impugned order dt.6-08-1997 is quashed with a direction to the respondents to reinstate the appellant-petitioner into service, but without back wages. We also make it clear that there shall be continuity of service of the appellant that should be counted only for the purpose of pension at the time of his retirement.

With the above observations, the writ appeal is allowed. No costs.

T. MEENA KUMARI, J

20/06/2005

P. LAKSHMANA REDDY

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HON'BLE SMT JUSTICE T.MEENA KUMARI

and
HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

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WRIT APPEAL NO : 827 of 2005

(Judgment of the Division Bench delivered by

Hon'ble Smt Justice T Meena Kumari)

20th June 2005

To

1 The Chairman & Managing Director, The Visakhapatnam Steel Plant,

Visakhapatnam.
2 The Director (Personal), Personal Department, The Visakhapatnam

Steel Plant, Visakhapatnam.
3 K. Krishna Rao, Deputy General Manager (Power) Disciplinary

Authority, The Visakhapatnam Steel Plant, Visakhapatnam.
4 The Additional General Manager, (Power, Electrical & Telecom)

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